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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,377	06/22/2006	Sijtze Van Deer Meer	NL03 1513 US1	9220
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EXAMINER WASAFF, JOHN SAMUEL				
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3742				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/584,377

**Applicant(s)**

VAN DEER MEER ET AL.

**Examiner**

JOHN WASAFF

**Art Unit**

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 June 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-16 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 22 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/SI/226)  
Paper No(s)/Mail Date 06/22/06  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

***Claim Objections***

1. Claims 1-16 are objected to because of the following informalities: it appears that the commas in lines 10-11 of claim 1 and lines 3-5 of claim 13 were inadvertently deleted in the preliminary amendment. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: in claim 1, it is unclear what the liquid outlet connects to.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-8, 11-12, 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Fung (US Patent No. 6,289,796 B1).
6. In claim 1, Fung shows **a device for preparing a heated liquid** (i.e., hot milk dispenser; see title), the device comprising: **a liquid transport channel in communication with a liquid**

**reservoir** (milk passage 21), **a steam inlet which is connectable to a steam generator** (steam nozzle 17), **a liquid outlet** (dispensing outlet 29), and **means for transporting a combined flow of at least liquid and steam to the liquid outlet** (chamber 23 into chamber 25 provides for means for transporting; see Fig. 1), characterized in that **the device comprises a cartridge in which the liquid reservoir, the liquid transport channel, the means for transporting, and the liquid outlet are provided** (Fung refers to a "single unit milk dispenser," i.e., a cartridge that contains the parts mentioned above; see col. 1, ln. 28-30; Fig. 1).

7. In claim 2, Fung shows **the means for transporting comprise a first and a second chamber** (chambers 23, 25, respectively), wherein **the liquid transport channel discharges into the first chamber** (milk passage 21 connects to side of chamber 23; see col. 2, ln. 25-30) and **the first chamber comprises the steam inlet** (nozzle 17 into chamber 23; see Fig. 1) and wherein **the second chamber is connected to the first chamber via a restriction and comprises the liquid outlet** (second chamber 25 connected to first chamber 23 via a restricting aperture 24; see Fig. 1).

8. In claims 3-4, Fung shows **use with a beverage-making appliance characterized in that it is at least partly detachably connectable to the beverage-making appliance, the cartridge is detachably connectable to the appliance via the steam inlet** (Fung refers to a dispenser incorporated into a coffee maker, i.e., connected in a partly detachable manner; see col. 1, ln. 7-12).

9. In claim 5, Fung shows **the liquid transport channel comprises an air inlet** (unmarked entry point into milk passage 21 defines an air inlet into milk channel).

10. In claims 6-7, Fung shows **the air inlet is closable, a valve is provided for opening and closing the air inlet** (outlet valve 11 controls entry into milk passage 21 and has a knob for opening and closing the inlet; see Fig. 1).
11. In claim 8, Fung shows **the liquid comprises milk** (milk reservoir 10; see col. 2, ln. 15-20).
12. In claim 11, Fung shows **at least the second chamber is provided with obstructions for enhancing the frothing of liquid in the second chamber during operation** (plate 27 acts as obstruction device for frothing of liquid in chamber 25; see col. 2, ln. 30-35).
13. In claim 12, Fung shows **the liquid reservoir is a refillable reservoir** (milk reservoir 10 has open top adapted for refilling; see Fig. 1).
14. In claim 14, Fung shows **the appliance comprises a space for receiving the device for preparing a heated liquid** (Fung teaches hot milk machine that is incorporated, i.e., received, into coffee maker appliance; see col. 1, ln. 7-12).
15. In claim 15, Fung shows **the appliance comprises a steam generator which is connectable to the steam inlet of the device upon receipt of the device in the space** (steam generator 12).
16. In claim 16, Fung shows **the appliance comprises means for opening a liquid flow path between the reservoir and the liquid channel** (selector knob 14).

***Claim Rejections - 35 USC § 103***

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fung.

19. In claims 9, Fung teaches all the features as described above.

Fung does not specifically teach the liquid comprises liquid coffee extract.

It would have been obvious to one of ordinary skill in the art at the time of the invention to replace Fung's milk reservoir 10 with liquid coffee extract, so that the user can dispense into his/her drink other liquids besides milk.

20. Claims 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fung in view of Gross (US Patent No. 5,862,740).

21. In claim 10, Fung teaches all the features as described above, including an inlet to the chamber (aperture 22).

Fung does not specifically teach the first chamber comprises a water inlet which is connectable to a water reservoir.

Grossi teaches a device for frothing that uses a water inlet connected to a source of a supply of water, i.e., a reservoir, to supply water to the chamber (see col. 3, ln. 15-25 of Grossi).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Fung with Grossi, in order to provide a water inlet for the easy cleaning of the device (see col. 3, ln. 15-25 of Grossi).

22. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fung in view of Rizzuto et al. (US Patent No. 5,473,972).

23. In claim 13, Fung teaches all the features as described above,

Fung does not teach the liquid reservoir is provided in an element which is moveable between a first position in which it covers the liquid transport channel, the first chamber, the steam inlet, the restriction, the second chamber, and the liquid outlet during operation and a second position in which it leaves these components exposed for cleaning purposes in a non-operating status.

Rizzuto teaches a milk container attachment for a cappuccino machine that has an element moveable between a first position, in which it covers the parts below, and a second position, in which the parts below are exposed and able to be cleaned (Fig. 2 of Rizzuto shows a perspective of the milk container with the top partially removed).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Fung to include the feature of the moveable element, as taught by Rizzuto. The motivation is for reservoir that can be easily removed and cleaned (see col. 1, ln. 15-20 of Rizzuto).

### *Conclusion*

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see Notice of References Cited form).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN WASAFF whose telephone number is (571)270-1283.



The examiner can normally be reached on Monday through Friday, 7:30am to 5:00pm, alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on (571)272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. W./  
Examiner, Art Unit 3742  
05/03/10

/M. Alexandra Elve/  
Primary Examiner, Art Unit 3742